PROJECT BACKGROUND

The Maine Office of Aging and Disability Services (OADS) is in the process of making a number of changes to the Section 21 program, which provides home and community based services for individuals with intellectual and developmental disabilities. This effort includes a number of initiatives:

- Administration of the Supports Intensity Scale (SIS) to all individuals receiving services
- Developing a system of individual budgets based upon individuals' residential placement and level of need as measured by the SIS
- A comprehensive review of the provider fee schedule
- Changes to service definitions, requirements, and limits and other policies

OADS released proposed changes related to each of the above initiatives in July. The materials were announced on July 23, 2014 and stakeholders were encouraged to submit their comments to OADS@Maine.gov. The original September 1 deadline was extended to September 12.

Several strategies were employed to disseminate the proposals as widely as possible. The materials were emailed to advocates, providers, and other stakeholders and posted on the OADS website. A public forum was held in Augusta. Two consultants assisting OADS on this project – the Human Services Research Institute (HSRI) and Burns & Associates, Inc. (B&A) – conducted webinars to explain the materials and recordings of these webinars were posted online. At the request of providers and other groups, OADS staff have attended numerous meetings and forums to discuss the proposals.

Approximately 115 caregivers, advocates, providers, and other interested parties submitted comments. OADS reviewed all submissions and divided them into two categories for the purpose of preparing responses. Many of the suggestions resulted in changes to the proposals. This document includes comments related to the proposed rates and changes to service definitions. Companion documents cover the comments regarding the SIS and individual budgets, and policies and procedures.

DOCUMENT SUMMARY

In total, 76 unique comments related to the proposed rate models and changes to service requirements were received. The comments were summarized and organized into topical areas as follows:

- Multiple Services (beginning with comment 1)
- Home Support Quarter-Hour and Respite (beginning with comment 29)
- Agency Home Support (beginning with comment 31)
- Work Support (beginning with comment 52)
- Community Supports (beginning with comment 54)
- Therapies and Consultative Services (beginning with comment 71)

Comments were thoughtfully written and constructive, and OADS appreciates all those who took time to provide feedback. Based upon the comments received, OADS has made a number of revisions to the proposed rate models:

- Incorporated revised Internal Revenue Service mileage rates for 2015, which is increased the standard mileage rate from $0.56 to $0.575 per mile and the depreciation component from $0.22 to $0.24 per mile.
- Revised the assumed number of hours of time spent away from Agency Home Support residences to 24 hours for all tiers (previously, the Tier 1 rate model included 22 hours, Tier 2 included 24 hours, and Tier 3 included 30 hours).
- Added 5.25 hours per week to each Agency Home Support rate model to recognize shift "hand-offs" (calculated as 0.25 hours per shift, three shifts per day, seven days per week).
- Reduced the required percentage of hours assumed in the Agency Home Support rate models that providers must deliver in order to be compliant from 95 percent to 92.5 percent.
- Eliminated the requirement that Agency Home Support residences must have awake staff during overnight hours. Additionally, asleep staff hours will be counted when determining compliance with the 92.5 percent compliance standard.
- Added Semi-Independent Supported Living (SISL) as a new service. This is a congregate residential service where members do not live in the same home but share agency staff. Staff must be available whenever a member is present. An example is an apartment complex at which multiple members are living in their own apartments with staff on-site whenever a member is there.
- Decreased the assumption for Community Support attendance from 90 percent to 85 percent and made a conforming change to the Agency Home Support rate models.
- Removed assumptions related to community participation from the facility-based Community Supports rate model. Rather, providers will bill the facility-based rate for services delivered at a facility and the community-based rate for services delivered in the community (this rate will not be limited to "community-only" programs). Thus, for example, a provider may bill both rates for the same member on the same day if the member receives some support in a facility and some support in the community.
- Changed the Community Supports staffing requirement to no more than five members per one direct support professional for facility-based services – although the Tier 2 and Tier 3 rate models assume more intensive staffing – rather than calculating site-specific staffing requirements. Similarly, the ratio for community-based services cannot exceed the Tier 1 standard of 2.5 members per DSP (that is, five members for every two DSPs).
- Increased the wages assumed in the Therapies and Consultative Services rate models.
- Added travel time and mileage to the Therapies and Consultative Services rate models.

The remainder of this document recites the specific comments and responses to each.

MULTIPLE SERVICES

1. Several commenters objected to any reductions in the rates for services. Some providers reported that they believe that the impact to their organization will be larger than the overall estimated impact.

The rates for each service included in the rate study are based on specific assumptions. The resulting rate models resulted in increased rates for some services and reduced rates for others, but OADS believes that each rate reflects the costs and requirements associated with each service.

After the changes to the rate models discussed in this document, the average rate for Agency Home Support is anticipated to decline by about 5 percent while the average Community Support rate will be reduced by 19 percent. It is important to note, though, that in both cases the required staffing levels for both services will both be lowered. In other words, agency revenues may decline for these services, but reduced staffing will result in lower costs. Further, any overall savings will be reinvested in the Section 21 program, through expanding the amount of support that current members received and/or increasing program enrollment.

Other services will experience significant rate increases, including an average increase of 18 percent for Home Support Quarter-Hour, 46 percent for Work Support, and more than 80 percent for Physical and Occupational Therapy.

The actual financial impact will vary by provider based upon the services they provide and the members that they serve. That said, some of the estimates reported by commenters are almost certainly overstated. For example, one provider estimated that their Community Support revenue would decline by 43 percent; however, that would only be possible if every one of their members is assigned to the Tier 1 rate.

Finally, OADS notes that Maine has one of the highest per-person home and community-based services costs for individuals with intellectual and developmental disabilities. In 2011 (the most recent data available), the State had the eighth-highest per person cost in the country.[1] These costs are driven by a number of factors, including provider rates. When developing the rate models, OADS benchmarked the resulting rates to those paid for comparable services in other CMS Region 1 states and found that Maine's rates will continue to be higher than most states for most services (for example, see the response to comment 54 regarding Community Support rates). Even with the changes being made to reimbursement rates, Maine will have the ninth-highest per-person cost in the nation. OADS believes that this funding amount is sufficient to meet the needs of members.

2. Several commenters suggested that the revised rate schedule be piloted.

OADS recognizes that stakeholders have a number of questions regarding the changes that are being made to the Section 21 program. Considering the changes made to the proposals in response to comments, policies that will be in place to evaluate requests for additional supports, and the notice being given before implementation begins in July 2015, there will not be a pilot.

In this document as well as the companion documents addressing comments relating to individual budgets and other policies and procedures, OADS discusses the changes made to its proposals. In this document, the majority of comments dealt with Agency Home Support and Community Support. The staffing levels – and thus the corresponding rates – for these services are changing, but OADS has revised other proposals to accommodate existing service delivery approaches. For example, as discussed in the response to comment 32, the proposed requirement that Agency Home Support residences have awake staff during overnight shifts has been eliminated. As another example, the responses to comments 39 and 56 discuss changes made to proposals for monitoring and enforcing direct support professional staffing levels so that the new guidelines are closer to existing policies.

[1] Larson, S.A., Salmi, P., Smith, D., Anderson, L. and Hewitt, A.S. (2013). *Residential Services for Persons with Intellectual or Developmental Disabilities: Status and trends through 2011*. Minneapolis: University of Minnesota, Research and Training Center on Community Living, Institute on Community Integration. Table 3.7, HCBS Expenditures per Average Daily Recipient

The staffing levels assumed in the rate models will be sufficient to accommodate the needs of the large majority of members, but OADS expects that there will be a very limited number of people who may need additional level of support. The revised Section 21 program includes a variety of opportunities for members to request these exceptions. For example, the response to comment 48 discusses the process for accessing additional Agency Home Support services. As noted in the response to comment 55, there is a one-to-one Community Support service that any member will be able to access. The document providing responses to comments related to individual budgets outlines a revision to the proposal for members living independently that increases the number of hours of Home Support Quarter-Hour services that they will be able to access.

The implementation of individual budgets will begin in July 2015 and will be phased-in based on members' planning years. Full implementation will therefore take one year, allowing agencies to make gradual changes to their programs. Considering the advance notice being provided and the one-year transition period, OADS does not believe that a pilot is necessary.

Finally, OADS has attended numerous meetings requested by community advocates as well as providers. OADS is committed to continuing to providing technical assistance as requested.

3. One commenter expressed disappointment with the number of providers that participated in the provider survey. Another commenter noted that data collected through the survey were not necessarily used as the assumptions in the rate models.

A provider survey was developed in order to collect information from providers regarding the services that they deliver and the costs associated with those services. The survey was emailed to providers and they were given approximately five weeks to complete and submit the survey. Burns & Associates, Inc. provided technical assistance throughout the survey period including a hosted webinar.

After excluding providers who only deliver services that were not included in the rate study (primarily Family-Centered Support and Shared Living), 129 agencies provided Sections 21 and/or 29 services in fiscal year 2013. Of these, 41 providers submitted a survey, about 32 percent of the total number. These providers accounted for almost 56 percent of the spending on the services included in the rate study. Revenue is a reasonably proxy for total units of service and members served so the responding providers accounted for a majority of the programs.

As the numbers imply, larger providers were more likely to participate in the survey; 30 of the top 50 providers by revenue (60 percent) – who account for 87 percent of all spending – participated in the survey. Smaller providers, such as those operating a single Agency Home Support residence, were less likely to complete the survey. Participation also varied across services; 55 percent of Employment Specialist Services providers (11 of 20) completed a survey compared to zero therapy providers (out of four).

Higher participation in the survey is always desirable, but the response rate was in line with expectations and OADS believes that the data offered useful points of comparison.

Survey results did inform the assumptions built into the rate models, but did not dictate the rates. Current costs are generally a function of existing rates so it was important to look to other sources of information. In addition to the survey results, OADS considered a variety of other data sources including, for example, Bureau of Labor Statistics wage data for various occupations across industries in the State, a number of health insurance premium cost estimates, and rates paid for comparable services in nearby states. The rate model appendices for direct support professional wages, benefits, and productivity specifically included the survey results next to the rate model assumptions so that

stakeholders could easily compare the two and the full survey analysis packet was included in the materials released for public comment.

4. One commenter asked if providers must follow the assumptions incorporated in the rate models or if they have flexibility in how they administer their programs.

The rate models are built upon assumptions related to direct support professionals' wages, benefits, and non-billable responsibilities; agency program support and administration; and other service-specific costs such as mileage, member attendance, and program supplies. These assumptions are intended to provide a reasonable approximation of the costs associated with delivering each service. However, it is likely and expected that providers' actual costs may vary from the assumptions.

Providers, therefore, are not required to conform to the assumptions incorporated in the rate models. They may pay wages greater or lower than assumed in the rate models, direct more or fewer dollars to administration, etc. Providers must comply with the requirements outlined in the MaineCare Benefits Manual and related policies.

5. One commenter asked whether the rate models will be adjusted over time to reflect changes in wage, benefit costs, etc.

The rate models are structured in such a way that they can be periodically reviewed to determine whether adjustments to any particular cost factor are warranted (for example, to account for increased costs associated with health insurance or mileage). OADS will consider these needs – along with other organizational priorities – as part of its budgeting process. Ultimately, the ability to make adjustments will be a function of the availability of funding and the State's priorities for any available dollars (for example, using funds to adjust rates or reduce the waiting list).

6. Several commenters asked questions regarding the wage assumptions. One commenter asked for information regarding the source of the job classifications used to "build" the wages. The commenter further asked how the assumptions regarding the "mix" of classifications used to develop the wage assumption for each waiver service was validated.

The approach to developing the wage assumptions for the rate models is outlined in Appendix A of the rate model packet. In brief, the wage assumptions are intended to reflect the median wage for a direct care staff person performing similar jobs in the State of Maine as reported by the federal Bureau of Labor Statistics (BLS). The BLS publishes data for 821 job classifications using its Standard Occupational Classification (SOC), including the wages paid for each job at the 10th, 25th, 50th (median), 75th, and 90th percentiles.

In some instances, the "correct" BLS job classification for a particular service was obvious. For example, the wage assumption for certified occupational therapist assistants (COTAs) is based on the BLS wage for occupational therapist assistants (SOC 31-2011). For most services, though, there is not a job classification that precisely mirrors the waiver service requirements because many of these staff have responsibilities that are found in multiple job classifications. Rather than choosing the BLS job classification that is closest, a weighted average of multiple job classifications was constructed in order to reflect the various responsibilities.

For example, the wage assumption for Agency Home Support assumes that the majority of their work is consistent with the job classification for personal and home care aide (SOC 39-9021) copied below and assigns 60 percent of the wage to that classification:

> Assist the elderly, convalescents, or persons with disabilities with daily living activities at the person's home or in a care facility. Duties performed at a place of residence may include keeping

> house (making beds, doing laundry, washing dishes) and preparing meals. May provide assistance at non-residential care facilities. May advise families, the elderly, convalescents, and persons with disabilities regarding such things as nutrition, cleanliness, and household activities.

This is probably the best match for Agency Home Support staff. However, the rate models also reflect that staff often have higher level responsibilities by assigning 20 percent of the wage to rehabilitation counselors (SOC 21-1015) and 20 percent to social and human service assistants (SOC 21-1093):

> [21-1015] Counsel individuals to maximize the independence and employability of persons coping with personal, social, and vocational difficulties that result from birth defects, illness, disease, accidents, or the stress of daily life. Coordinate activities for residents of care and treatment facilities. Assess client needs and design and implement rehabilitation programs that may include personal and vocational counseling, training, and job placement.
>
> [21-1093] Assist in providing client services in a wide variety of fields, such as psychology, rehabilitation, or social work, including support for families. May assist clients in identifying and obtaining available benefits and social and community services. May assist social workers with developing, organizing, and conducting programs to prevent and resolve problems relevant to substance abuse, human relationships, rehabilitation, or dependent care.

In these instances in which there is not a direct match between a waiver service and a BLS job classification, the assumptions are intended to represent a reasonable approximation of the work associated with each waiver services based on a review of service requirements in comparison to the job classifications. It is noted that in all cases, the wage assumptions included in the rate models are substantially greater than current wages reported by respondents to the provider survey.

As of the date of this document, BLS wages and job classification descriptions can be found at: http://www.bls.gov/oes/.

7. Several commenters stated that overtime costs and holiday differentials were ignored in the wage assumptions.

The response to comment 5 outlined the methodology employed to develop the wage assumptions used in the rate models. The commenter is correct that no specific adjustment was made to account for overtime costs or holiday differentials. Rather, the wage assumptions are intended to reflect an average hourly wage. It is expected that wages for some staff will be lower than assumed in the model and in other cases the wage will be higher whether due to higher base pay for more experience staff, overtime costs, or any other reason.

The rate model wage assumptions were compared to the median wages reported by respondents to the provider survey as illustrated in the table below.

	Median Wage Reported in Survey	Rate Model Assumption	Difference
Home Support - Quarter Hour	$10.65	$12.51	17%
Agency Home Support	$10.68	$12.51	17%
Community Supports (Individual and Group)	$10.80	$12.86	19%
Work Support (Individual and Group)	$10.89	$14.85	36%

The wages reported in the provider survey are inclusive of all cash compensation, including regular pay, overtime, shift differentials, holiday pay, and bonuses. Given that the rate model wages exceed current wages by between 17 and 36 percent, OADS believes that the assumptions are adequate.

8. Two commenters suggested there is an error in the benefit rate calculations.

Assumptions related to benefits for direct support professionals are detailed in Appendix B of the rate model packet. The first page outlines the specific assumptions related to each benefit while the second page translates those assumptions to benefit rates based on the DSP wage.

The benefit rate calculations were rechecked and there are no errors. The table below outlines the calculations for a $12.00 per hour wage, or $24,960 annually.

Benefit	**Annual Cost**	**Calculation**
FICA (Social Security and Medicare)	$1,909.44	Annual salary multiplied by 7.65 percent (6.20 percent for Social Security and 1.45 percent for Medicare)
Federal Unemployment Insur.	$42.00	$7,000 (portion of an employee's salary subject to the federal UI tax) multiplied by the 0.60 percent tax rate
State Unemployment Insurance	$264.00	$12,000 (portion of an employee's salary subject to the state UI tax) multiplied by assumed 2.20 percent tax rate
Workers' Compensation	$798.72	Annual salary multiplied by assumed rate of 3.20 percent
Paid Time Off	$2,400.00	300 hours of paid time off (25 days at 8 hours per day) multiplied by hourly wage
Health Insurance	$4,800.00	Assumed monthly cost of $400 multiplied by 12 months
Other Benefits	$300.00	Assumed monthly cost of $25 multiplied by 12 months
Total	**$10,514.16**	

The total cost - $10,514.16 – is 42.1 percent of the annual $24,960 salary. The benefit rates for all other wage levels are calculated in the same manner. Note that the benefit rate declines as the wage increases because certain costs – unemployment insurance, health insurance, and other benefits – are fixed and so are a lesser percentage of higher-paid staff's wages.

9. One commenter asked why the rate models include 25 days of paid time off for direct care workers (holidays, vacation, and sick leave) and stated that respondents to the vendor survey reported that direct care workers receive 26.6 paid days off.

As illustrated in the table included in the response to comment 8, the rate models assume that direct support professionals annually receive 25 days of paid time off for holidays, vacation, and sick leave. OADS considered both provider survey results and other data when establishing this assumption.

Respondents to the provider survey reported that full-time staff who receive paid time off receive an average of 24.8 days per year (weighted average without outliers; the weighted average with outliers was 26.6 days and the median was 25 days). However, there were also providers who reported that they do not offer any paid days off to their full-time DSPs. When taking into account the DSPs who receive zero days of paid time off, the effective benefit level across all full-time staff is 19.8 days.

Further, providers reported that about one-quarter of the DSP workforce works part-time and these staff receive only 5.1 paid days off per year, on average.

Data from the federal Bureau of Labor Statistics (BLS) was also considered. This data showed that private sector employees with one-to-five years of experience in the New England region who are given paid time off receive 25 days per year, on average. The BLS also shows that there are a significant number of full-time workers who do not receive any paid time off. When considering the staff who do not receive anything, the effective amount of paid time off across all employees is 18.2 days annually.

The 25 days of annual paid time off assumed in the rate models is in line with data from the provider survey and BLS. Additionally, in contrast to the findings from the provider survey and BLS, the rate models assume that all DSPs have access to paid time off.

When considering all benefits, the rate models provide significantly more than what was reported through the provider survey. As illustrated in Appendix B of the rate models, the assumed benefit rate for a DSP earning $12.00 per hour is 42.1 percent, compared to an effective benefit rate of 32.9 percent based on provider survey results.

10. Several commenters suggested that $400 per month for health insurance is too low, with two commenters reporting that this amount is less than one-half of their actual costs. One commenter stated that the average cost reported by respondents to the provider survey was $470 per month.

As outlined in Appendix B of the rate model packet, the rate models assume that 100 percent of direct support professionals receive health insurance from their employer and that the employer's share of the monthly premium cost is $400. The estimated monthly cost is less than the cost for participating employees reported by agencies that completed the provider survey, but the rate models assume that employees participate at a much higher rate than indicated in the provider survey. Considering both costs and participation, the rate models include more funding for health insurance costs than reported through the survey.

The monthly health insurance cost estimate was derived from a number of data sources. According to Bureau of Labor Statistics data for the New England region, the average monthly employer cost for health insurance is $392 for participating employees. According to the federal Department of Health and Human Services' Medical Expenditure Panel Survey, the average monthly health insurance cost for private sector employers in Maine was $383.75 for participating employees. Although costs can vary widely based on age and location, health insurance premiums for plans purchased through Maine's Health Insurance Exchange suggest lower costs. According to analysis by the Henry J. Kaiser Family Foundation, the "benchmark" plan for a 40 year-old non-smoker in Portland will cost $295 per month.

Additionally, the rate models assume that all DSPs participate in their employers' health insurance plan so the full $400 is included for every employee. However, participants in the provider survey reported that only 54 percent of full-time DSPs receive health insurance (and an even lesser percentage of part-time DSPs receive health insurance). Thus, although the average monthly cost reported by provider survey respondents was $470 for participating DSPs, their effective cost for all DSPs – including those that do not participate in the health insurance plan – was $253.

When considering all benefits, the rate models provide significantly more than what was reported through the provider survey. As illustrated in Appendix B of the rate models, the assumed benefit rate for a DSP earning $12.00 per hour is 42.1 percent, compared to an effective benefit rate of 32.9 percent based on provider survey results.

11. Several commenters suggested that $25 per month for direct care staff benefits other than health insurance, paid time off, and mandatory employment related costs (i.e., FICA, unemployment insurance, and workers' compensation) is not adequate to provide for dental insurance, retirement, life insurance, and employee assistance programs.

As outlined in Appendix B of the rate models packet, the models include funding for benefits for direct support professionals. The models include mandatory benefits such as Social Security and Medicare, federal and state unemployment insurance, and workers' compensation, as well as paid time off and health insurance. Additionally, the models include $25 per month for other benefits that an employer may provide such as dental or life insurance, retirement, or disability. This funding amount is intended to reflect the cost of other benefits offered by providers, but does not assume that all other potential benefits are offered.

There is no requirement that these optional benefits be offered to DSPs and, generally, few DSPs receive any of these benefits individually. For example, the provider survey included specific questions related to retirement benefits. Participants in the survey reported that only nine percent of full-time direct support professionals receive a retirement benefit. Respondents further reported that 57 percent of DSPs receive some other benefits with an average monthly cost of $31 per participating employee. When accounting for the DSPs that do not receive any other benefits, the effective monthly cost for all full-time DSP was $18. The rate models provide $25 per month for all DSPs to recognize some level of additional benefits, a greater health insurance purpose, or other benefits-related costs.

When considering all benefits, the rate models provide significantly more than what was reported through the provider survey. As illustrated in Appendix B of the rate models, the assumed benefit rate for a DSP earning $12.00 per hour is 42.1 percent, compared to an effective benefit rate of 32.9 percent based on provider survey results.

12. One commenter suggested that the 30 percent turnover rate assumed in the rate model for the purpose of estimating average annual turnover requirements is too low, citing several sources that found higher estimates. The commenter noted that turnover impacts the training and overtime costs.

OADS acknowledges the costs associated with high turnover amongst direct support professionals as well as the impact that turnover can have on the quality of services. In terms of the rate models, a 30 percent turnover rate was assumed for the purposes of estimating the average number of training hours that DSPs receive annually (because there are greater training requirements in the first year of employment than in subsequent years; the training assumptions are discussed in greater detail in the response to comment 14).

The turnover rate is in line with responses from the provider survey. The estimated average turnover rates based on survey participants were 15 percent for Work Supports, 22 percent for Community Supports, 35 percent for Agency Home Support, and 38 percent for Home Support – Quarter-Hour. There are a variety of sources that have found higher turnover rates and it is likely that turnover amongst some providers is higher.

Additionally, rather than memorializing high turnover rates, the rate models assume more generous wages and benefits for DSPs than they currently receive based on survey results (wage and benefit assumptions are discussed in the responses to comments 6 through 11). The presumption is that improved compensation would reduce turnover.

13. Several commenters questioned the productivity assumptions in the rate models. In particular, they stated that most DSP work fewer than 40 hours per week – often fewer than 30 hours – so there should be a larger percentage of non-billable time (and, therefore, a greater productivity adjustment).

Productivity factors are incorporated in the rate models to account for direct support professional responsibilities that are not billable services. Examples included travel to a member's home or attending training. Since these are costs associated with the operation of a program, the productivity adjustments "inflate" hourly rates in order to allow the costs to be recouped over the course of DSPs' billable time. As an example, the Home Support – Quarter-Hour short-term rate model assumes the hourly cost of DSPs' wages and benefits are $17.77 per hour, which translates to $710.80 per week. However, after accounting for the productivity factors, the model assumes that a DSP only provides billable services for 35.25 hours per week. Thus, the rate model includes $20.16 per billable hour ($710.80 divided by 35.25 hours) to account for non-billable responsibilities.

As the commenters note, the rate models assume that DSPs have 40 hour workweeks. However, the commenters' inference that a shorter workweek would translate to a larger productivity adjustment is not necessarily true. The key factor in this component of the rate model is the ratio of billable hours to total billable hours. This ratio may remain the same even if the number of work hours is reduced. For example, if a DSP works 20 hours per week instead of the assumed 40 hours, it is reasonable to assume their travel time would also be halved. Thus, the ratio would not change.

That said, some productivity factors are fixed regardless of the number of hours worked. Training is the best example. Training requirements are the same regardless of whether the DSP works 20 hours or 40 hours per week. For these fixed factors, it is true that the productivity adjustment will increase as the number of work hours decline.

After considering this comment, the rate models remain unchanged and continue to assume 40-hour workweeks. This decision was made for two reasons.

First, the overall productivity adjustments are generally consistent with information reported through the provider survey as illustrated in Appendix C of the rate model packet. For example, the Agency Home Support short-term rate model assumes 38.25 billable hours per 40-hour workweek compared to 37.61 billable hours based on provider survey results (note that survey responses were scaled to a 40 hour workweek in order to allow comparison across providers, but the ratios – the actual determinant of the productivity adjustment were not changed; the comparison would be the same regardless of whether the scale was set at 30 hours or a 100 hours). Assumptions are similarly consistent for other services.

Second, the rate models are built on a set of assumptions. In this case, it is assumed that DSPs work a full-time 40-hour workweek. As noted in the response to comment 4, it is likely that the actual operations of providers will vary from these assumptions. Overall, the rate models are intended to provide a reasonable approximation of the cost of delivering each service. In this case, it may be that DSPs at some organizations work part-time and would therefore have a lower productivity ratio due to certain fixed productivity factors such as training (that is, there would be a larger productivity adjustment to reflect that a smaller proportion of their time is billable). However, there would be offsetting savings; in particular, it would be likely that part-time staff receive less generous benefits than are built into the rate models. In this example, then, the rate models may be underestimating productivity adjustments for part-time staff, but is overestimating benefits costs (probably to a larger

degree). Thus, although the rate model is predicated on a full-time DSP, it remains reasonable for a part-time DSP.

14. ***Several commenters reported that the assumptions regarding training hours included in the rate models are too low. One commenter noted that "state and federal regulations" require 92 hours of training in the first year and that the College of Direct Support alone requires 56 hours of training. Commenters offered their own estimates, ranging from 97 hours to 169 hours of training in the first year and 26 hours to 85 hours in subsequent years.***

    OADS believes that the 52 hours of annual training assumed in the rate model is sufficient. The assumption is intended to reflect a weighted average, recognizing that staff receive more training in their first year of employment than they do in subsequent years.

    Considering College of Direct Support, certified residential medication aide (CRMA), Mandt, CPR/First Aid and other medically related training, OADS estimates that first training totals approximately 120 hours. Training requirements in the following years are much less, perhaps 20 hours annually. Assuming 30 percent annual turnover, the weighted average is about 50 hours (120 hours at 30 percent plus 20 hours at 70 percent). Although there were variances across services, these assumptions are generally consistent with the figures reported in submitted provider surveys.

15. ***Several commenters stated that the $40,000 cost assumption for vehicles that support Agency Home Support, Community Support, and Work Support-Group services is too low. Some of these commenters suggested that "most" vehicles require adaptive lift equipment. One commenter stated that the salvage value estimate is too high. Another commenter suggested that the rate models should not include an assumption that programs use large vans as they attract negative attention. Several commenters noted that large van, minivans, and sport utility vehicles can accommodate six people, but the Community Service rate model assumes that there are five consumers per vehicle, leaving room for only one staff person.***

    Many of the rate models include assumptions related to mileage traveled by direct support professionals as part of the delivery of services. The rate models for larger group services include a higher per-mile reimbursement rate to reflect higher acquisition costs. In order to develop this capital acquisition cost, the rate models make assumptions related to the purchase price, useful life, and salvage value.

    For services typically delivered one-to-one or to small groups, the rate models use the Internal Revenue Services' 2015 standard mileage rate of $0.575 per business mile to estimate the cost of mileage.[2] The IRS mileage rate is inclusive of both fixed costs (such as acquisition/depreciation) and variable costs (such as gasoline and insurance). The depreciation cost is intended to be applicable towards all four-wheel vehicles weighing less than 6,000 pounds. However, in order to recognize the greater acquisition costs of vans used to transport larger groups of individuals, the rate models for Work Supports, Community Supports, and larger Agency Home Support residences include a higher capital component.

    The IRS does not detail the specific components of the standard mileage rate except for depreciation, which is $0.24 per mile in 2015. Rather than this amount, the rate models for larger group-based services assume that vehicles cost $40,000, are driven for 100,000 miles and have a 20 percent

[2] Since publication of the proposed rate models, the IRS released its mileage rates for 2015. The final rate models incorporate these changes, increasing the standard mileage rate from $0.56 to $0.575 per mile and the depreciation component from $0.22 to $0.24 per mile. Note also that the proposed rate models incorrectly included an assumed $0.23 per mile for depreciation, which was the amount in 2012 and 2013.

salvage value. These assumptions translate to a capital cost of $0.32 per mile (net cost of $32,000 – which is $40,000 less the 20 percent salvage value – divided by 100,000 miles). This is added to the operating cost component of the IRS rate, which is $0.335 per mile after removing the $0.24 from the $0.575 total.

When establishing the vehicle purchase price, both provider survey results and independent data sources were considered. The average purchase prices reported by survey participants for Work Supports, Community Supports, and Agency Home Supports were less than $30,000. Reviewing prices from local vehicle dealers and Kelly Blue Book data, the typical price for 12- or 15-passenger vans were typically around $35,000 while smaller vehicles were less expensive. The rate models used a higher $40,000 cost to recognize that some vehicles will require modifications. It is correct that $40,000 will likely not be adequate to purchase a vehicle with a wheelchair lift, but not all vehicles require lifts. The $40,000 price is intended to represent a reasonable average cost across all vehicles, some of which will have lifts and some of which will not. Based on the comparison to provider survey results, OADS continues to believe this is a reasonable assumption.

The salvage value estimates are also derived from various published sources of used vehicle prices. Considering vehicles that are four-to-five years-old with around 100,000 miles, typical resale prices are generally about $16,000. This translates to 40 percent of the assumed $40,000 purchase price, but the rate models discount this by one-half to 20 percent to account for additional wear that may occur on vehicles used for these types of services. OADS continues to believe this is a reasonable assumption.

As noted in the response to comment 4, the assumptions made in the rate models are not mandates upon the providers. Vehicles may be smaller than assumed in the rate models, but this would have the tendency to lower costs due to the lesser acquisition costs. Providers, then, have the opportunity to manage this component of their programs at a lower cost than assumed in the rate models.

16. One commenter suggested that the rate models include inconsistencies between mileage assumptions and travel time (for example, the Home Support Quarter-Hour rate model includes 150 miles of travel per week and one hour of travel time).

The assumptions cited by the commenter are not completely related. The mileage assumption includes both miles traveled between members (and not billing) and when transporting a member (and billing). However, the assumption regarding travel time is intended to account only for time when a staff person is traveling between members and, therefore, unable to bill for any service; time spent transporting members would not be included because those hours are being billed. Thus, only a portion of the assumed mileage corresponds to the assumed travel time.

17. One commenter asked who is responsible for providing transportation to Work Supports and Community Supports programs.

The rate models and related changes to services definitions are not making any changes to non-emergency transportation policies. Non-emergency transportation to waiver services such as Work Supports and Community Supports is the responsibility of the regional transportation brokers.

18. Several commenters suggested that the mileage assumptions in the Agency Home Support and Community Supports rate models may be too low for programs in rural parts of the State.

The rate models aim to approximate the cost of delivering services. Transportation is one of these costs and the rate models are intended to include a reasonable mileage assumption for programs across the State. It is acknowledged that there will be some programs – such as those in more rural

areas – that incur more mileage than assumed in the rate models, just as there will be some programs that incur fewer miles. However, there may also be offsetting costs. For example, according to Bureau of Labor Statistics wage data, wages in the greater Bangor area are 5 percent less than the statewide average and wages in northeastern Maine are 9 percent less than the average. Thus, although mileage may be understated for rural programs, wages may be overstated and the bottom-line rates remain reasonable.

19. One commenter asked whether the federal Centers for Medicare and Medicaid Services will permit shared staffing.

It is unclear if the commenter is referring to a specific service. That said, OADS does not anticipate any barriers in receiving federal approval for the proposed services for the group-based services that, by definition, involve members sharing staff support.

Services that rely upon shared staffing are primarily residential services including Agency Home Support and a new Supported Living service (to be paid on a per diem basis) and Community Support and Work Support (both to be paid in 15-minute units for each member receiving services). There are also shared (or group) rates for services that are generally delivered one-to-one, but may occasionally be delivered to a group, including Home Support Quarter-Hour and Therapies. Given that the approaches to reimbursing these services outlined in the rate models and service definitions are consistent with processes already in place in Maine and/or other states, OADS believes its proposals are allowable.

20. Several commenters stated that the rate model assumption of 10 percent for administrative costs is too low. Some of these commenters noted that providers responding to the provider survey reported an average administrative rate of 12.7 percent (11.7 percent median) in addition to an average of 13.9 percent for program support (13.2 percent median). One commenter noted that the rate varies by home size for Agency Home Support. Another commenter asked whether medical supplies are included in the program support rate.

On average, the rate models include a total of 20 percent for agency overhead (administration and program support). The actual rates vary by service, with group-based services receiving higher rates than one-to-one services. Some rate models include overhead funding that is less than the amounts reported by respondents to the provider survey and other rate models provide more. The overall average in the rate models is less than the average from the survey, but OADS believes that the overall rate models provide adequate funding.

The rate models include 10 percent of the total rate (excluding the service provider tax) for agency administration. The rate models provide a flat per-day amount for program support so the percentage of total costs will vary by service. For example, the total overhead rates built into the rate models for facility-based Community Supports range from 31 to 40 percent. The assumed overhead rates for three- and four-person Agency Home Support residences vary from 16 to 22 percent. For two- and one-person Agency Home Support residences, the rate models fix overhead funding at the per-person amounts included in the three-person models. The rate model for Consultative Services-Psychological includes only 14 percent for agency overhead.

As noted, the average overhead rate across all services is 20 percent. This is less than the approximately 26 percent average reported by respondents to the provider survey. This comparison is somewhat misleading, however, because the same costs may not necessarily be included in both rates. For example, some participants in the provider survey included costs that are separately funded in the rate models in addition to overhead, such as program-related transportation and program supplies for Community Support services.

Finally, as discussed in the response to comment 4, the assumptions included in the rate models are not limits that providers must follow. Some of the assumptions in the rate models, such as direct support professional wages and benefits, are generally greater than reported through the provider survey while other costs, such as agency overhead, are less than reported. Since providers are not limited by the specific assumptions in the rate models, they are able to allocate dollars in different ways, such as directing a greater portion of the rate to their overhead expenses.

21. One commenter stated that members with little support needs should not receive the same residential and day program staffing and administrative funding.

OADS agrees with the commenter. Tiered rates for Agency Home Support and Community Support services are intended to reflect the varying intensity of supports that members require based on their level of need.

In general, persons with more significant needs require a greater degree of support. The Agency Home Support rate models provide more staff hours on a per-member basis for those with higher needs. For example, for a home with four or more members, the Tier 1 rate allocates 48.21 staff hours per week while the Tier 3 rate allocates 98.01 hours. Similarly, the Community Supports rate models include more intensive staff ratios. The facility-based Tier 1 rate assumes a ratio of five members per staff person while the Tier 3 rate assumes 2.5 members per staff person.

The different staffing assumptions lead to different rates and, since administrative rate is calculated based on other costs, the administrative funding also varies. The Tier 1 rate for Agency Home Support residences with four or more members includes $120.50 per week per member for administrative costs while the Tier 3 rate includes $223.31, an 85 percent difference. Likewise, the Tier 1 rate for facility-based Community Supports includes $1.34per hour in administrative funding compared to $1.90 per hour in the Tier 3 rate, a 42 percent difference.

22. One commenter stated that day program services are treated more favorably than residential services despite being "cheaper to operate" with less administrative costs.

It is not clear to what the commenter is referring. Agency Home Support services have the greatest overall costs since the service is providing full-time support. Since administrative funding is a function of total other costs, Agency Home Support services receive the most of administrative funding. As an example, the Tier 2 rate for an Agency Home Support residence with four or more members includes $21.02 per member per day for administrative costs. In comparison, the Tier 2 rate for facility-based Community Supports – which assumes four members per staff person – includes $1.49 per member per hour for administrative costs. Assuming that a member attends five hours per day, the provider would receive a total of $7.45 for administrative costs, about 35 percent of what the Agency Home Support provider is paid.

23. Two commenters asked why there are only three rate tiers although there are five SIS-based levels of need.

As the commenter notes, there are five SIS-based levels, but only three different rates for services with tiered rates. Specifically, Level 1 receives Tier 1 rates, Levels 2 and 3 receive Tier 2 rates, and Levels 4 and 5 receive Tier 3 rates. The levels are designed to provide meaningful descriptions of the individuals assigned to each, but OADS believes that the necessary staffing ratios (which drive the differences in tiered rates) for certain levels are similar so five different rate tiers are not necessary.

Conceptually, Level 1 includes those individuals with relatively modest needs and can therefore be served in larger groups. Levels 2 and 3 both include members with moderate needs, which comprise

the largest proportion of the population of individuals with intellectual and developmental disabilities. These members are divided into two levels in order to provide more specificity in the descriptions. Members assigned to Level 2 have moderate support needs while persons in Level 3 have above average support needs due to their disability or behavioral challenges. In terms of delivering services, though, OADS believes that the necessary staffing ratios are comparable. Similarly, Levels 4 and 5 include members with the greatest needs, but the sources of need differ. Level 4 includes persons with the most significant support needs due to their disability or medical conditions while Level 5 includes those with a similar level of support needs as a result of behavioral challenges.

24. One commenter asked when providers will be notified of members' SIS-based levels so that they will know the rate that will be paid for that member. Another commenter expressed concern that providers may be hesitant to deliver services to member at certain SIS-based levels due to the associated rate tiers.

OADS has endeavored to provide the SIS-based level assignments to members' case managers. The case managers, in turn, are responsible for sharing that information with members and their providers, as requested.

SIS-based levels will be known in time for members' planning meeting. These assignments are obviously necessary because they determine the budget that a member will receive, allowing them to decide what services they want. For tiered services – Agency Home Support and Community Support, the level assignments also dictate the rate so providers will know what they will be paid for delivering services to that member.

Tiered rates are intended to recognize that members have varying degrees of need and that it is more costly to deliver services to those with more significant needs due to the need for more intensive staffing. OADS believe this is an improvement over the current system in which, for example, the Community Support rate is the same for every member (notwithstanding Medical Add-On) regardless of how intensive their needs are. In such a one-size-fits-all approach, there is a clear incentive to serve only those members with the least amount of need. The tiered rates more closely align rates with the intensity of service that members receive, which OADS believes will make it more likely that members at all levels will be able to access services.

25. One commenter, noting that each member will receive a SIS assessment approximately every three years, asked whether rates will remain unchanged during that period of time.

As noted by the commenter, members will receive a SIS assessment approximately every three years unless a reassessment is required sooner due to a major life change as described in policy. During the period between assessments, the SIS-based level to which the member is assigned will not change. Thus, the rate tier for the member will also not change; if a member is assigned to Tier 2, for example, they will remain Tier 2 until they receive a new SIS assessment, at which time they may or may not be assigned to a new tier based on assessment results. The actual rate paid for Tier 2 services in this example could change based on updates to the rate models and available funding as described in the responses to comment 5.

26. Several commenters expressed concern with the elimination of Medical Add-On rates and asked how individuals with medical needs will be supported.

Medical Add-On rates will be eliminated when the new rate schedule is implemented. However, adequate support will continue to be available to individuals with significant medical needs.

First, the rate models for Agency Home Support and Community Supports include higher rates for individuals with extraordinary medical needs. Specifically, individuals with the most significant medical needs would be assigned to the SIS-based Level 4. As noted in the response to comment 24, members in Level 4 receive Tier 3 rates. Tier 3 rates are the highest due to more intensive staffing and, since administrative costs are included as a percentage of all other costs, more funding for administration. For example, the Tier 3 rate for a four-person Agency Home Support residence is $349.46, which is 85 percent higher than the Tier 1 rate of $188.63 and 52 percent more than the $230.29 Tier 2 rate. Similarly, the Tier 3 rate for facility-based Community Supports is 41 percent and 28 percent greater than the Tier 1 and Tier 2 rates, respectively.

Home Support – Quarter-Hour, Employment Specialist, and Work Support – Individual services do not include tiered rates. Since these services are primarily delivered one-to-one, the per-hour costs of delivering these services do not change much based on an individual's level of need. That is, members with extraordinary medical needs may need more hours of support, but the cost of one hour of one-to-one support for an those individuals is generally the same as the cost of one hour of one-to-one support for an individual with minimal needs. Further, in fiscal year 2013, only three members received the Medical Add-On rate for Home Support – Quarter-Hour and no one used the Medical Add-On rates for Employment Specialist or Work Support – Individual. It is also noted that the new (non-tiered) rates for Employment Specialist and Work Support – Individual – that will be paid for all members – is higher than the Medical Add-On rates, while the short-term Home Support – Quarter-Hour rate is $7.40 per quarter-hour compared to the $7.50 per quarter-hour Medical Add-On rate.

Additionally, OADS is adding Skilled Nursing to the Section 21 program. Policies for this service are still being developed, but its inclusion will allow providers to bill for hands-on nursing supports that members need.

27. Several commenters asked why Family-Centered Support and Shared Living were not included in the review of rates.

There were a number of services that were not included in the rate study. In addition to Family-Centered Support and Shared Living, the study did not include counseling, non-traditional communication services, home accessibility adaptations, specialized medical equipment or supplies, or communication aids.

The rate study focused on services built upon an "employee" model. In contrast, Family-Centered Supported and Shared Living are more similar to foster home-type services or, at least, are not generally provided by staff earning taxable wages subject to minimum wage and overtime requirements. Additionally, spending for Family-Centered Supported and Shared Living totaled less than 11 percent of total Section 21 expenditures in fiscal year 2013. Agency Home Support, in comparison, accounted for 72 percent of total Section 21 spending.

OADS may review Shared Living rates in the future. As of December 30, 2007, OADS is no longer approving Family-Centered Support placements.

28. One commenter expressed disappointment in a lack of emphasis on technology and how that can affect service delivery.

Technology-related services were not included in the review of reimbursement rates, but OADS is committed to working with members, families, and providers in identifying opportunities to use technology to meet the needs of members and complement or substitute other paid services. In fact, this year OADS received federal approval to add Assistive Technology as a covered service to the Section 21 program. Assistive Technology will be used to cover a variety of supports to help

members take advantage of the potential benefits of technologies; covered supports will include functional evaluations; paying for the acquisition of devices; designing, applying, and maintaining devices; coordinating associated interventions; training for members, family, and providers; and data transmission.

HOME SUPPORT QUARTER-HOUR AND RESPITE

29. Several commenters objected to the proposal to have both a short-term and long-term rates for Home Support Quarter-Hour services, stating that it would be an administrative burden. Some of these commenters suggested creating an average of the two so that only one rate would be tracked and billed.

Home Support Quarter-Hour services are intermittent habilitative in-home supports. There will be two rates for this service – a short-term rate and a lower long-term rate – to recognize the differences in certain cost factors when services are provided for an extended period.

The short-term rate will be billed for the first six hours (24 units) of service that a member receives in a day. After the first 24 units of services, the long-term rate will be billed. The long-term rate model is lower because it removes travel time and distances as well as recordkeeping time. The assumption is that if a direct support professional is delivering more than six hours of service to a single member, that DSP is only going to see one member during that day so that mileage and a productivity adjustment for travel time is no longer necessary (that is, travel has already been paid for over the first six hours of billing). Similarly, recordkeeping time is assumed to have been accounted for in the first six hours of billing.

OADS considered creating a single rate that assumed some members receive shorter-duration services and others receive more extended services. However, different short-term and long-term rates have been retained because a blended rate would result in lower rates for individuals who require limited supports (that is, fewer than six hours in a day), potentially making it more difficult for them to receive services.

30. One commenter expressed support for the inclusion of Respite services in the Section 21 program.

OADS appreciates the support and hopes that Respite will be a valuable support for families caring for their loved ones with disabilities.

AGENCY HOME SUPPORT

31. Several commenters asked whether 84 hours will remain the cut-off between Home Support Quarter-Hour and Agency Home Support. Another commenter asked whether billing for two members who live in their own apartment and receive drop-in support of 100 hours or more per week would be at the per diem or quarter-hour rates.

Home Support Quarter-Hour and Agency Home Support are two distinct services and the 84-hour cut-off will no longer be considered the distinguishing factor.

Agency Home Support is a full-time residential habilitation service. A direct support professional must be in the residence whenever a member is present. The service may be provided in an agency-owned or leased residence or a home owned or leased by a member living independently; it cannot be provided in a home in which a member lives with family. This service is reimbursed on a per diem

basis, with the rate based upon the member's level of need and the number of members living in the home.

Home Support Quarter-Hour is an intermittent residential habilitation service. The service is provided in the member's family's home or his or her own home. Providers are not responsible for the member on a constant basis. The number of hours of support that a member receives will vary based upon their needs. Some individuals may require only a few hours per week while others may require significantly more. The service is reimbursed per quarter-hour based upon the actual hours of support delivered.

In the example cited by the commenter in which members live in their own apartment and receive "drop-in" support, the service would be billed as Home Support-Quarter Hour. It would not meet the definition of Agency Home Support because it does not meet the requirement that a DSP be present at all times when the member is home. The number of hours of Home Support-Quarter Hour that a member can receive will be a function of their individual budget and how they choose to allocate their dollars.

In addition to Agency Home Support and Home Support Quarter-Hour, OADS is adding a new residential habilitation service. Supported Living is a full-time residential service in which members share supports, but do not live in the same home. The typical example is an apartment complex in which multiple members are living, but in their own apartments. DSPs will be required to be onsite whenever a member is present, but this model does not meet the criteria for Agency Home Support because the staff will not be in the members' home (that is, they will not be in the apartment of each member at all times). Supported Living will be reimbursed on a daily basis and will not require tracking of hours provided to an individual member. As with Agency Home Support, total DSP hours will be monitored for the location overall. Members living in their own apartment could receive Home Support Quarter-Hour if they do not require staff to be onsite at all times; providers would bill for hours of face-to-face services.

32. Several commenters objected to the proposed requirement that Agency Home Support residences must have awake staff during overnight shifts. Commenters stated that the proposal would necessitate changes to service delivery models (e.g., "live-in" and "long-term staff" models), require the hiring of additional staff, and increase costs.

The rate models for Agency Home Support include assumptions regarding the number of direct support professional hours necessary to support the members living in that residence. The model further assumes that all DSP hours are "regular" work hours subject to minimum wage and overtime requirements. Since the rate models do not differentiate between daytime and overnight hours and provide the same amount of funding for all staff hours, OADS proposed that homes provide awake staff during the overnight hours.

After considering feedback on this issue, including descriptions of effective service delivery models that rely on DSPs that sleep during the overnight shifts, OADS has retracted this proposal. There still must be a DSP in the home whenever a member is present, including during the overnight hours. However, if it is determined during the person-centered planning process that members in an Agency Home Support residence do not need to have awake staff during overnight hours, DSPs may sleep overnight. Additionally, the hours that a DSP is sleeping in the Agency Home Support residence will count as work hours for the purposes of meeting the requirement that providers deliver 92.5 percent of the hours included in the rate models, discussed in the response to comment 39.

33. One commenter asked whether there will be any adjustments to the rates for homes for which the State Fire Marshall has dictated that two staff be available during the overnight hours if the rate model for such homes assumes that there is only one staff member.

OADS continues to have discussions with the Division of Licensing and Regulatory Services and provider representatives regarding overnight staffing requirements and approaches (for example, if the second direct support professional can sleep, that may have a lower cost than having a second awake DSP). These conversations will determine whether any changes to the rate models are required.

34. One commenter asked whether the proposed rates are per member or per home.

The proposed rates are per-person. To illustrate an example, for a three-person home with one member receiving the Tier 1 rate of $232.46, one member receiving the $245.37 Tier 2 rate, and the remaining member receiving the Tier 3 rate of $359.06, the provider would bill $836.89 per day ($232.46 plus $245.37 plus $359.06).

35. Another commenter asked whether specific rate models have been developed for five- and six-bed homes.

Rate models were not constructed for five and six bed homes. These homes will be reimbursed based on the four-bed rate models, which has been revised to make this clear (that is, the label has been changed to "Four or More Member Residences").

36. One commenter expressed concern that the rate models will result in the development of larger congregate residences, particularly for members with comparatively lesser needs (e.g., members assigned to Tier 1).

It is not OADS' intent to encourage the placement of members into larger congregate residences and does not believe that the rates favor homes of a particular size (noting that the moratorium on new one-person Agency Home Support residences in place since December 24, 2012 remains in effect). Further, OADS is hopeful that the increased rate for Home Support Quarter-Hour and the addition of Respite to the Section 21 program will result in more individuals living longer with their families or independently.

The Agency Home Support rate models are intended to reflect the cost associated with operating residences of various sizes. As the number of members in a residence increases, the number of staff hours assumed for the residence also increase. For example, a two-person home in which both members are assigned to Tier 1 is assumed to have 172.85 staff hours per week compared to 192.85 hours per week in a four-person home with members in Tier 1. On a per-person basis, though, the number of hours decreases as the home size increases, with 86.43 hours per member in the two-person example and 48.21 hours per member in the four-person example. Consequently, the Tier 1 rate for a two-person Agency Home Support residence is much higher than the Tier 1 rate for a four-person residence, $307.30 per day compared to $188.63.

Given the higher rates for smaller residences, it is unclear why the commenter believes that larger residences are being encouraged. As described in the example above, the differences in rates are a function of the total number of staff hours necessary to operate a residence and the number of members sharing those staff hours. As discussed in the response to comment 39, all Agency Home Support providers will be responsible for delivering 92.5 percent of the staff hours assumed in the rate models.

37. Several commenters expressed concern regarding the number of hours assumed in the rate models.

OADS believes that these staffing levels assumed in the Agency Home Support rate models are sufficient.

All of the two-, three-, or four-person rate models permit a direct support professional to be onsite 24 hours per day, seven days per week, and also include additional hours to provide occasional one-to-one support to individual members. The number of DSP hours increase based on an individuals' level of need. For example, in a three-person residence in which all members are assigned to Tier 1, the rate model assumes that there is one DSP working at all times and provides another 35 hours to account for one-to-one supports, assistance during "peak" hours, or coverage if one or more members do not participate in activities outside of the home. In comparison, a three-person residence in which all members are assigned to Tier 3 is assumed to have two staff working at all times.

Providers do not have to follow the specific staffing patterns assumed in the rate models. They must have a DSP onsite whenever a member is present and must deliver 92.5 percent of the total hours assumed in the rate models as discussed further in the response to comment 39.

That said, there may rare instances in which the assumed staff hours are not sufficient. In these situations, a member may submit a request to OADS for additional supports. These requests will be reviewed by the Extraordinary Review Committee (ERC), which will consider submitted documentation as well as the strategies attempted prior to requesting additional hours. Included in this review will be consideration of the DSP staffing levels that the provider has been delivering because if, for example, the provider has not been delivering 100 percent of the hours assumed in the rate models, there is some evidence that additional staffing is not required.

If the ERC agrees that additional DSP hours are necessary, it can authorize a higher tiered rate for that member (for example, they can authorize a Tier 2 rate for a member assigned to Tier 1, although they do not change the SIS-based level to which the member is assigned) or authorize Extraordinary Agency Home Support for a member assigned to Tier 3 (since there is no higher Tier to which that member can be assigned).

38. One commenter suggested that the rates models conflict with level 3 licensing regulations that require that a CRMA be on staff and available at all times when a member cannot self-medicate.

The Agency Home Support rate models and policies do not conflict with the requirement that certified residential medication aides (CRMA) be onsite and available to members who cannot self-medicate. Direct support professionals are required to be in the residence whenever a member is present. If that residence includes a member who cannot self-medicate, providers will need to ensure that there is always a DSP with a CRMA certification in that home.

39. Two commenters requested clarification regarding how staff hours will be monitored for compliance and what types of documentation the program integrity unit would require. One commenter also stated that a true per diem rate would consist of a "flat rate per day, per person and would be billed based on if the person was in the home that day or not". The commenter further expressed concern about the difficulty of tracking the number of hours of support per person per week. The other commenter stated that oversight should be based on outcomes. Another commenter asked what the sanction would be if a provider did not comply with the requirement that it provide 95 percent of the hours assumed in the rate models.

The process for monitoring compliance with the assumed number of staff hours in the Agency Home Support rates is effectively the same as the current approach. OADS has reduced the compliance threshold from the proposed 95 percent to the current 92.5 percent.

Currently, Agency Home Support rates are based on a home-specific determination of the number direct support professional hours necessary to adequately staff that residence. The total number of DSP hours is converted to a daily cost using the methodology prescribed in Appendices 2A and 2B of Chapter 3 of Section 21 of the MaineCare Benefits Manual. This cost is then divided by the number of members so that the same rate is paid for each member living in the residence. Providers are deemed to be in compliance if they provide 92.5 percent of the hours for which they are paid.

The new system will increase consistency in staffing hours based on members' level of need as well as the size of the home. That is, a member assigned to Tier 2 in a three-person residence should receive the same amount of support regardless of their provider or the part of the State in which they live. The number of hours attributable to each member in the home will be added to determine the total number of hours for the home.

For example, a three-person residence with one member assigned to each of Level 1, 2, and 3 would be funded at 226.05 hours per week (60.95 hours for the Tier 1 member, 64.95 for the Tier 2 member, and 100.15 hours for the Tier 3 member). The rate paid for each of these three members will be different since they are in different rate tiers. Since staff hours are generally shared, compliance will be monitored on a per-home basis, consistent with current practices. Providers will not have to monitor staff hours on a per-person basis.

Although providers are being paid for 100 percent of the hours assumed in the rate models, they will be in compliance if they deliver 92.5 percent of those hours. This compliance threshold is more generous than the 95 percent that was proposed and is consistent with the current standard. The 92.5 percent threshold is permitted because there may be some weeks in which a provider may need to deliver more hours of support than assumed in the rate models, but does not have an ability to bill for these additional hours. Thus, the provider in the example above would be compliant as long as they deliver 209.10 hours (92.5 percent of 226.05 hours).

Providers that do not meet the 92.5 percent threshold will be subject to recoupment or offsets to future billings. The amount to be recouped will be calculated as the difference between the number of DSP hours assumed in the rate models (without a discount to 92.5 percent of the total) and the number of DSP hours actually delivered multiplied by $18.48, which is the DSP wage and benefit cost assumed in the rate model. Returning to the example noted above, assume that the provider only delivered 200 hours of DSP support during the week, which is 26.05 hours less than the amount assumed in the rate models. This total is multiplied by $18.48, resulting in a recoupment or payment offset of $481.40.

As discussed in the response to comment 48, a provider billing Extraordinary Agency Home Support for a member in a residence must provide 100 percent of the hours funded through the Agency Home Support rates.

40. One commenter stated that the rate models should include additional time for "shift change and pass down time" explaining that during shift changes there is often a 15- or 30-minute period during which shifts overlap so that outgoing staff can brief incoming staff on any issues.

OADS agrees with this suggestion and believes that such "hand-offs" contribute to the consistency of care for members receiving Agency Home Support services. Additional staff hours have been added to the rate models to clearly reflect these hand-offs. Although providers have a variety of different staffing patterns, the additional hours assume there are three shifts per day and have added 15 minutes for one staff person per shift to brief the incoming staff. This translates to an added 0.75 hours per day, or 5.25 hours per week in each Agency Home Support rate model.

41. Several commenters expressed confusion regarding the 350-day billing limit for Agency Home Support, remarking, for example, that providers "expect to be reimbursed for each day" of service. Some commenters proposed higher billing limits. One commenter expressed appreciation that the rate models acknowledge that members may occasionally be absent from their residences, but that providers' costs are not automatically lessened when these absence occur.

The Agency Home Support rate models and the related 350-day billing limit is intended to protect providers against lost revenue due to members' occasional absences. In brief, the rates are "inflated" so that providers are fully compensated for 365 days of service over 350 billing days.

Agency Home Support providers deliver nearly constant support to individuals. When a member is out of the home to spend time with their natural family, due to hospitalization, or for any other reason, most of the providers' costs do not change. Staffing is shared across members so there is often little ability to reduce staff hours and agency administration and program support costs are fixed to some extent. Thus, if there is no absence factor built into the rate model, providers lose money that they can never recoup every day that a member is absent and they cannot bill. Additionally, OADS wishes to ensure that members are not discouraged from participating in activities that may result in an absence such a weekend with their natural family because the provider does not wish to lose any billing days.

The rate models therefore include an absence factor. For example, based on the rate model assumptions for a four-person Agency Home Support residence, the cost for a Tier 1 member is $1,266.17 per week, or $180.88 per day. This translates to $66,021.20 annually. The rate model divides this annual amount by 350 days, which results in an inflated rate of $188.63. This approach allows providers to earn the full annual cost of services – $66,021.20 in this instance – over 350 days of billing. Because providers have been fully reimbursed for each day of service that they deliver once they have earned $66,021.20, their billing is limited to 350 days.

Based on provider survey results, members are only absent from their homes about four days per year. However, the rate models use a greater assumption – 15 days – so that providers are not losing revenue for members who may be absent more often than average and to ensure that members have flexibility to leave their Agency Home Support residences. Eliminating the absence factor or assuming a lesser number of absences as suggested by several commenters would guarantee reductions in provider revenues.

42. One commenter asked how – since the 350-day billing policy allows providers to recoup 365 days of expenses – leap years with 366 days will be accommodated.

During planning years that include February 29, 351 days of Agency Home Support services will be authorized in order to account for the additional day of service.

43. Several commenters asked how – since Agency Home Support rates will be based in part on the size of the home – home size will be determined. For example, commenters asked if a member in a four-person home is absent, whether the provider be able to begin billing the three-person rate.

Home size will be based upon the number of members residing in the Agency Home Support residence rather than the capacity of the residence. That said, using the example in the comment, a provider operating a four-person residence will not be permitted to bill the three-person rate only because one member is absent. Rather, the authorized rate will be adjusted if a member moves out of the residence.

As discussed in the response to comment 41, the rate models already assume that members will be occasionally absent from their homes. Through this approach, providers are already protected against

(that is, paid for) 15 absences per member per year so there is no reason to adjust the rate when a member is absent. Further, if a member is predictably absent (for example, they spend every weekend with their natural family), providers should be able to adjust their staffing as necessary.

If a member moves out of the residence and another member does not move in, the provider will need to contact OADS to change the authorization to reflect the new number of residents. In order to provide time to identify a new resident (which is the preferred outcome) and because some levels of absences have been built into the rate models, the authorization can be changed once the exiting member have been out of the residence for 30 days. Note that during this interim period, the number of hours of direct support professional staffing that agencies are expected to provide will be reduced. That is, as discussed in the response to comment 39, each member is allocated a specific number of DSP hours and agencies are responsible for delivering 92.5 percent of these hours. Since there would be no DSP hours allocated for a member who left the home, hours (and costs) would be reduced.

Note that there is no change to existing policy relating to vacancies that occur in two-person residences, which require agencies to fill the vacancy or, ultimately, discharge the remaining member.

44. Several commenters objected to the assumptions incorporated into the Agency Home Support rate model that members spend between 22 and 30 hours per week outside of their residence engaged in either Community Support programs or other paid or unpaid activities, due to retirement, personal choice, or other reasons. Some of these commenters asked whether the rates for Agency Home Support services will be increased for members who are not engaged in other activities for the number of hours assumed in the rate models.

In most instances, OADS believes that it is appropriate that members spend time outside of their Agency Home Support residence. This may include paid services such as Work Supports or Community Supports programs or unpaid activities such as independent employment or participation in the community with natural supports. However, it is acknowledged that this may not be feasible for some small segment of the Section 21 enrollment. There is no requirement that members participate in outside activities and all of the rate models for residences with at least two members are sufficient for providers to staff them 24 hours-per-day, seven days-per-week. Thus, rates will not be automatically adjusted for members that do not participate in activities outside of the home.

OADS believes that it is important that members spend time outside of their home and interact with persons other than their Agency Home Support staff and their roommates. Consequently, the Agency Home Support rate models include the assumption that members are not with their residential staff for some portion of the week. As discussed in the response to comment 45, the rate models for all tiers assume that members are outside of their residences without their residential staff 20.4 hours per week (an assumed 24.0 hours per week adjusted for a 15 percent absence factor). These hours are "pulled out" of the Agency Home Support rate models because it is assumed that staff are not needed during these times.

As discussed in the response to comment 4, though, these assumptions are not requirements. If a member and their person-centered planning team determine that outside activities are not desired or feasible, the member may choose not to participate. The rate models for two-, three-, and four-person homes will still accommodate these members as they all included funding for more than 168 hours (which is the number of hours in the week) of DSP staffing. The Tier 1 rates include 172.85 hours, 182.85 hours, and 192.85 hours for a two-, three, and four-person home, respectively (it is noted that one-member homes do not provide for 168 hours as it is not cost-effective to provide one-to-one support 24 hours-per-day, 365 days-per-year). The rates for Tier 2 and Tier 3 homes provide even more hours.

Since all of the rate models for residences with at least two members allow providers to staff their homes 24 hours-per-day, homes with members who do not participate in outside activities do not require ipso facto additional DSP hours. As discussed in the response to comment 37, there will be a process for members to request additional staff hours, though the lack of participation in outside activities will not likely be sufficient justification for approval of any increase.

45. Several commenters questioned why it was assumed that individuals receiving a Tier 3 rate were assumed to spend more time participating in paid or unpaid activities outside of the home than those individuals receiving a Tier 1 or 2 rate.

In the proposed Agency Home Support rate models, the Tier 1 model assumed that members were out of their home 22 hours per week, Tier 2 assumed 24, and Tier 3 assumed 30 hours. These hours aligned with assumptions made to develop individual budgets. To make it clearer that expectations for community participation are comparable regardless of members' level of need, the rate models have been adjusted to assume that members at all levels participate in day activities 24 hours per week. After accounting for a 15 percent absence factor, it is assumed that members are out of the home for 20.4 hours per week, which is a more conservative assumption than the original proposal and is more in line with current practices.

As noted in the response to comment 44, these assumptions are not requirements and all of the rate models for homes with at least two residents allow for a home to be staffed 24 hours per day.

46. One commenter asked whether Community Supports can be delivered through the residential program.

Agency Home Support providers can also deliver Community Support services. If Agency Home Support providers do deliver Community Supports, the services will be billed as Community Supports and will not be "built into" the Agency Home Support rate. As is true for all providers, any Community Support services provided and billed by Agency Home Support providers will have to meet the service requirements for Community Supports as outlined in the MaineCare Benefits Manual.

47. Several commenters asked for clarification on when and how the new rates will be implemented. Suggestions included transitioning all individuals receiving Agency Home Support to the new rate system on a specific date, or transitioning on a home-by-home basis.

Implementation is scheduled to begin July 1, 2015. OADS intends to transition members to the new rate schedule (and their individual budgets) as their annual planning dates occur. Full implementation of the new rate schedule will therefore require a full year, with the final members transitioning in June 2016.

OADS is aware of the complications that would occur if an Agency Home Support residence has one or more members with rates and hours based on the current methodology and one or more other members with rates and hours based on the new approach. OADS is considering a number of options, including those cited by the commenters, and will work with providers to finalize and implement the ultimate approach.

OADS will communicate additional details regarding the implementation process to members, providers, and other stakeholders as they become available.

48. Some commenters provided anecdotal examples of members for whom they do not believe the number of hours assumed in the rate models would be sufficient.

As discussed in the response to comment 37, there will be a process for members to request additional Agency Home Support staff hours. In response to these requests, the Extraordinary Review Committee may authorize a higher tier than that to which the member is assigned or may authorize Extraordinary Agency Home Support for members assigned to Tier 3. Due to incomplete information and privacy considerations, OADS is unable to comment on specific examples in this document.

Extraordinary Agency Home Support is an hourly service that would be billed in addition to the per diem rate for a member who requires more support than the number of hours assumed in the rate model for the per diem service. Since members in an Agency Home Support residence share staff support, when evaluating requests for this service, the ERC will consider the total staff hours funded through the rate models for all members in the home. If the ERC agrees that a member needs more one-to-one support than the number of staff hours built into residence can accommodate, Extraordinary Agency Home support will be authorized. Before billing for Extraordinary Agency Home Support, a provider must first provide 100 percent of the hours built into the Agency Home Support rate models. In other words, the 92.5 percent compliance threshold discussed in the response to comment 39 does not apply to these homes because Extraordinary Agency Home Support is intended to augment the hours funded through the Agency Home Support rates.

49. One commenter asked for what period of time Extraordinary Agency Home Support hours will be approved.

There is no limit on the number of times that the service can be authorized, but the ongoing need for the service will have to be justified, evaluated, and authorized every six months.

50. One commenter objected to the rate model for Extraordinary Agency Home Support because it does not include an administrative component.

The rate models for Agency Home Support include funding for providers' program support and administration costs. Program support is a fixed, per-member amount. Administration is set at 10 percent of total costs so it increases with level of need (because other costs – primarily staffing – are higher for those with more needs). This is in contrast to the current approach to Agency Home Support rates in which the per-staff-hour rate is reduced after 168 hours per week, effectively producing a "fixed" administrative cost regardless of a member's level of need.

As noted in the response to comment 48, Extraordinary Agency Home Support is only intended to provide additional one-to-one support to members assigned to the Tier 3 Agency Home Support rate. Consequently, the rate model only includes costs associated with the staff providing those services. The administration and program support component of the Tier 3 rates is already significantly higher than in the Tier 1 and Tier 2 rates (for example, in a three-person residence, the administrative and program support funding in the Tier 3 rate is 28 and 24 percent more than in the Tier 1 and Tier 2 rates, respectively) so the Extraordinary Agency Home Support rate model does not include more administrative funding to bring more staff in to the home.

51. One commenter asked whether it will be possible for the Extraordinary Agency Home Support service to be billed in quarter-hour increments on the same days that a per diem Agency Home Support rate is billed.

There is not a general prohibition against an hourly service being billed on the same day as a per diem service. Further, many states allow hourly services to be delivered and billed in a residential setting

for which a per diem rate is being billed (these services are most commonly nursing, therapies, or other specialist services). A key feature of the associated billing guidelines is that the hourly service cannot be duplicative of the per diem service. Given that Extraordinary Agency Home Support is demonstrably a supplement to Agency Home Support, OADS believes this approach is permissible.

As discussed in the responses to comment 37, the Agency Home Support rate models are based on specific assumptions regarding the number of hours of direct support professional staff hours incorporated into the rates. As further discussed in the response to comment 48, Extraordinary Agency Home Support will only be approved for members assigned to the Tier 3 rate and for whom the number of hours assumed in that rate is inadequate. Providers will only be able to bill Extraordinary Agency Home Support for members in homes in which 100 percent of the hours assumed in the rates for the members in that home are provided. Since it will be documented that the Extraordinary Agency Home Support hours are in addition to what is included in the Agency Home Support per diem, OADS believes that this service will be approved. If it is determined that the service is not permissible, an alternative approach to accommodating extraordinary staffing needs will be developed.

WORK SUPPORT

52. Two commenters expressed support for the proposed rate increases for Work Support and Employment Specialist Services as well as the addition of a Career Planning service. Another commenter objected to the differences between rates for Community Supports and Work Supports, stating that "work services are the easiest yet best reimbursed services."

OADS appreciates the support for the increases to the employment-related services and hopes that the rates will continue to expand the availability of employment opportunities for persons with disabilities, consistent with the goals and requirements of the Employment First Maine Act.

OADS disagrees with the statement that work services are "easier" services that receive higher rates. As with all of the rate models, the rates were built to approximate the costs associated with delivering a given service. In the case of employment-related services, one of the drivers of rates that are higher on a per-staff hour basis is the assumption that staff delivering these services have greater qualifications and experience (and, thus, higher wages) than staff providing many other services.

53. One commenter asked whether the group rates would be billed for each member receiving service depending on the size of the group in which they are working.

The commenter is correct: the Work Support-Group rates will be billed for each quarter-hour of support received by each member in the group. These rates vary based upon the number of members per staff person. Note also, that members assigned to any SIS-based level can receive services in any group size, consistent with their person-centered plan (that is, the rates are not tiered based on level of need, but are a function of the staffing ratio).

For example, for a group with two members and one staff person, the rate is $5.34 per quarter hour. If both members receive four hours of support, the provider would bill 16 units of services for each member at $5.34 per unit, or a total of $85.44 for each member.

COMMUNITY SUPPORTS

54. Several commenters disagreed with the increase in the allowable staffing ratios, particularly for members in Tier 1 for whom the rate model assumes that facility-based services will be delivered at a ratio of five members per staff person. One commenter expressed support for a one-to-five ratio for members in Tier 1.

There is currently a single rate for Community Support services (notwithstanding the Medical Add-On rate) regardless of members' levels of need or where services are provided. Additionally, the required staffing ratio – one direct support professional for every three members – also does not change. Rather than this "one-size-fits-all" approach, the rate models provide for different staffing ratios based on members' level of need and the location of service delivery. In some cases, these ratios are greater than the current one-to-three and they are less in others. OADS believes the staffing ratios assumed in the rate models are appropriate.

As discussed in the response to comment 58, there will be rates for facility-based services and different for community-based services. The facility-based rate models for members assigned to Tiers 1 and 2 assume larger groups than the current one-to-three standard (assuming one-to-five and one-to-four, respectively) while the Tier 3 rate model assumes there is one DSP every 2.5 members (that is, two DSPs per five members). The community-based rates are higher than the facility-based rates because they provide for more intensive staffing ratios in the community since it is a less controlled environment. These models assume smaller groups than the current standard. Specifically, the Tiers 1 and 2 models assumes there is one DSP for every 2.5 members and the Tier 3 models assumes there is one DSP for every 1.5 members (that is two DSPs for every three members).

The table included in the response to comment 57 shows that, based on current utilization and the assumption that 30 percent of services are delivered in the community (consistent with provider survey results), the average anticipated staffing ratio for Community Services is about one DSP for every 3.5 members. This is somewhat greater than the current staffing requirement, but remains much less than the day habilitation standards in many other states.

Based on the same assumptions used to estimate the average staffing ratio discussed above, it is estimated that the average effective Community Support rate will be $4.30 per quarter-hour. Although it can be difficult to compare services across states because of differing requirements, the estimated Community Support rate will remain one of the highest day habilitation rates in Medicaid's Region 1. Based on a review of the other states' waiver applications, their average anticipated day habilitation rates for fiscal year 2014 were $4.71 in Connecticut, $4.17 in Massachusetts, $3.87 in New Hampshire, and $2.71 in Rhode Island.[3]

As discussed in the response to comment 56, in order to provide flexibility to providers and encourage the operation of programs with members of varying needs, the Community Support policy will specify that the maximum staffing ratio for facility-based services will be one DSP for every five members and the maximum ratio for community-based services will be one DSP for every 2.5 members. That is, although the rate models for Tier 2 and Tier 3 services assume and fund more intensive staffing ratios, the standard will be the lower Tier 1 requirements, consistent with the health and habilitation needs of the members served.

[3] Rhode Island rate is based on actual claims data for center-based and community-based day habilitation services in fiscal year 2013. Rate information for Vermont could not be identified.

Overall, OADS believes that the staffing ratios, rates, and policies for monitoring staffing levels are sufficient for the operation of Community Support programs that provide meaningful habilitation and opportunities for members.

55. Several commenters stated that they believe another tier is required for individuals with the most significant needs. Another commenter suggested that the proposed staffing ratios for Tier 3 are too low (i.e., the models should assume more members per staff person).

Members with the most significant needs will be assigned to the Tier 3. The rate models for this service already assume staffing levels that exceed the current one-to-three standard. Additionally, there is a one-to-one Community Support rate that may be accessed by members assigned to any tier, including those with the most significant needs.

As noted in the response to comment 58, there are separate rates for facility-based Community Support services and community-based services. The Tier 3 rate model for facility-based Community Support services assumes and funds one direct support professional for every 2.5 members while the community-based rate model assumes one DSP for every 1.5 members. Both ratios are set with a "half" consumer to imply that these services will often be delivered in groups with multiple DSPs (i.e., a one-to-2.5 ratio implies a group of 5 members with two DSPs) so that, if one person needs assistance with toileting or some other activity, the other staff person is able to continue working with the other members in the group.

OADS believes that these varied rates provide sufficient options for members.

56. One commenter suggested that there should be flexibility in the staffing ratios so that providers are able to determine "the safest and most beneficial staffing ratio for clients."

The Community Supports rate models include specific staffing assumptions that vary based on the location of service (that is, in a facility or in the community as described in the response to comment 58) and members' levels of need. In the proposed changes to MaineCare policy, these staffing assumptions would be used to calculate the number of direct support professional staff hours required for each program. In response to the public comments, however, OADS has retracted that proposal.

Instead, the policy will stipulate that staffing ratios can never exceed five members for every one DSP for services provided in the facility and 2.5 members for every one DSP in the community (that is five members per two DSPs). In both cases, these are the ratios assumed in the least intensive Tier 1 rate models. In other words, the Tier 2 and Tier 3 rate models assume and fund more intensive staffing, but agencies will be held to the lower Tier 1 staffing ratios.

This change has been made to reduce administrative complication and to provide more flexibility to agencies to design programs that will be serving members with varying levels of need. Staffing must still be adequate to meet the health and habilitative needs of the members being served. Although the minimum standards will be five members per DSP in the facility and 2.5 members per DSP in the community, it is likely that many or most programs will operate with more staff than the minimum required, particularly because the Tier 2 and Tier 3 rates pay for more staffing.

57. One commenter asked whether it would be possible for changes to the required staffing ratios to be phased-in to facilitate strategic planning and allow for staffing attrition. Another commenter stated that they would need to increase their staffing in order to comply with the rate model assumptions.

Implementation of the new rates will begin in July 2015 and will be phased-in on by member according to their planning year. Full implementation of the changes will therefore occur over the

next 18 months. OADS believes this is sufficient time to allow agencies to make any necessary changes to their programs or staffing.

Additionally, it is noted that, on average, the rate models do assume that staffing is somewhat less than current requirements, but not dramatically so. Specifically, based on the distribution of members using Community Supports and an estimated 30 percent of these services being provided in the community based on provider survey results, the rate models provide an average staffing ratio of 3.5 members per direct support professionals. The calculations are summarized in the table below.

	% of Utilization	Facility Ratio	Community Ratio (30% of Total)	Weighted Average Ratio
Tier 1	19.0%	5.0	2.5	4.3
Tier 2	65.3%	4.0	2.5	3.6
Tier 3	15.6%	2.5	1.5	2.2
Total				**3.5**

Thus, the staffing ratios assumed in the rate models would require somewhat fewer DSPs than current standards. That said, other changes – notably, increases in the amount of Community Support services that members may receive, a different approach to setting Agency Home Support rates that will create incentives for these providers to work with members in their residences to increase community participation, and the establishment of a one-to-one Community Support services – could increase the number of DSPs that are needed. Overall, then, OADS expects any changes to DSP employment levels to be modest and believes that the existing implementation plan provide sufficient time to accommodate any changes that may be necessary.

58. Several commenters objected to the requirement that 30 percent of facility-based services be delivered in the community. Other commenters suggested that the 30 percent requirement is too low for programs that provide a greater proportion of supports in the community, but are not "community-only".

The proposed Community Supports rate models included "blended" rates for programs at which services are provided at a facility any portion of the time and "community-only" rates for programs at which services are never provided at a facility. In response to comments, OADS has changed this proposal. Instead, there will be rates for services delivered in the facility and rates for services delivered in the community. Providers will bill the appropriate rate based upon where services are delivered so, for example, a provider may bill both the facility-based rate and the community-based rate on the same day for the same member if they receive services at both a facility and in the community.

In the proposal, the blended rates were intended for programs at which services are delivered both at a facility and in the community. Based on provider survey results, the model assumed that 30 percent of the services were delivered in the community. Since the model assumed that staffing ratios are more intensive in the community, the assumption regarding the percentage of services delivered in the community was a significant factor in the rate (that is, the greater the proportion of services delivered in the community, the higher the rate). As the commenter noted, this approach would have disadvantaged those agencies that provide more than 30 percent of their services in the community, but are not community only.

To address this feedback, there will instead be rates for facility-based services and for community-based services. As with the previous proposal, the rates are tiered with more intensive staffing

assumptions (and, thus, higher rates) for members with more significant needs. Rather than limiting the higher community-based rates to "community-only" programs, all providers will be able to bill this rate when they are providing services in the community. This will reflect the full proportion of services delivered in the community rather than billing a rate that is fixed assuming that 30 percent is of members' time is spent in the community. OADS believes that this is a more equitable approach that better supports agencies that provide a more significant proportion of their services in the community.

There will not be a requirement that a set percentage of a member's Community Support time be spent in the community – that will be determined as part of the planning process – or that an agency provide a specific proportion of its services in the community.

59. One commenter suggested that a hybrid rate be developed for organizations that are both facility- and community-based services.

The originally proposed facility-based rates actually were hybrids, with the models assuming that programs spent 30 percent of the time in the community. For the reasons discussed in the response to comment 58, these hybrid rates have been eliminated. There will be rates for services delivered in a facility and rates for services delivered in the community. This approach recognizes that the amount of time that programs spend in the community varies across agencies and ensures that reimbursement reflect these differences.

60. One commenter asked how programs will be approved as community-only.

As noted in the response to comment 58, the proposal for "community-only" rates as been eliminated. Instead, there will be community-based rates that all agencies will be able to bill for services they provided in the community even if they also provide services in a facility (which would be billed at the facility-based rates).

61. One commenter expressed support for the establishment of higher rates for services delivered in the community, but also stated their belief that the rate structure incentivizes service location rather than the quality of service. Another commenter stated that there are members for whom facility-based services are more appropriate.

The rate models for Community Supports delivered in the community are higher than services delivered in the facility to reflect the need for more intensive staffing. The rate models are not making a value judgment regarding the services, but only recognize that the "community" is a less-controlled environment necessitating a greater level of oversight.

OADS acknowledges that quality services can be (and are being) delivered in facilities and that there are community services that could be improved. There is no intent to eliminate facility-based services, which remain a covered service for members for whom that is the best option.

62. One commenter suggested that the rate models "assume that consumers who receive center-based services have fewer needs than those consumers who receive community-based services." Another commenter stated that the rate models reward "low quality" programs. A third commenter stated that the rate models do not provide a large enough incentive for community-based programs. A fourth commenter expressed support for higher community-only rates.

The rate models do not assume that members receiving facility-based services have fewer needs than those receiving community-based services. Additionally, the rate models are not intended to "reward" either type of services. Rather, as discussed in the response to comment 61, the community-

based are higher to reflect the need for more intensive supervision in the community. Greater staffing results in higher rates for community-based services. Rates for both facility-based and community-based services are tiered so that the staffing levels (and rates) increase for as individuals' levels of need increase.

63. Several commenters expressed that changes to staffing ratios will limit members' access to the community.

As discussed in the response to comment 58, there will be Community Support rates for facility-based services and different, higher rates for community-based services. The staffing ratios assumed in the rate models for community-based services are more intensive than current requirements so members' access to services in the community should not be limited.

The current standards for Community Supports require an average staffing ratio of one direct support professional for every three members, regardless of where services are delivered or the level of need of the member. The new rate models include three tiers based on members' level of need, with more intensive staffing for members with comparatively greater needs. Both the Tier 1 and Tier 2 rate models assume one DSP for every 2.5 members (that is, two DSPs per 5 members) and the Tier 3 rate model assumes one DSP for every 1.5 members (that is, two DSPs per 3 members).

In addition to community-based rate models that assume more intensive staffing than the current standard of one DSP for every three members, there is also a one-to-one Community Support rate model. Any member will be able to access this service to receive one-to-one supports in the community. With the establishment of community-based rates with more intensive staffing and a one-to-one community service, OADS believes that members' access to the community will not be limited, but will be enhanced.

64. One commenter noted that the facility-based rate model for Tier 1 assumes a ratio of one staff person for every five members in the facility and one staff person for every 2.5 members in the community and asks which ratio is correct?

As discussed in the response to comment 58, there will be rates for Community Supports provided in a facility and rates for services delivered in the community. Thus, the correct ratio will depend on where services are delivered. As described in the response to comment 56, Community Supports staffing ratios cannot exceed five members per direct support professional in a facility and 2.5 members per DSP in the community (that is five members per two DSPs). These minimum requirements apply to all rate tiers (although, as discussed in the response to comment 56, the Tier 2 and Tier 3 rates assume and pay for more intensive staffing).

65. One commenter asked whether providers will be able to bill both a facility-based rate and a community-based rate on the same day for the same member if that member receives some services at a facility and some in the community during that day.

Yes. As discussed in the response to comment 58, there will be rates for services delivered in a facility and rates for services delivered in the community. Agencies will bill the appropriate rate based on where services are provided. If a member spends part of their day at a facility and part of the day in the community, the agency will bill both rates for that member to reflect the portion of services delivered at each location. For example, if a member receives Community Support at a facility for three hours in the morning and then receives services in the community for three hours in the afternoon, the provider would bill 12 units at the appropriate facility-based rate and 12 units at the appropriate community-based rate for that member on that day.

66. Several commenters stated that the attendance assumed in the rate models is too high.

The rate model for Community Supports assumed that members attend 90 percent of their scheduled days. This estimate was based on information reported by respondents to the provider survey. In response to these comments, authorization and utilization data was reviewed. This analysis found that members who received a full-year of services in fiscal year 2013 utilized slightly more than 85 percent of their Community Supports authorizations.

In response, the attendance factor in the Community Support rate models has been reduced to 85 percent. In a conforming change, additional staff hours were added to the Agency Home Support rate models to reflect a greater allowance for day program absences.

67. Several commenters objected to the proposal that all Community Supports under the Section 29 program will be authorized and billed at the Tier 2 rate.

At this time, OADS has decided not to make any changes to the Section 29 program and there are no current plans to administer the Supports Intensity Scale to members in this program. The current rates will therefore remain in place for Section 29. OADS may revisit this decision once the provisions of the amended Section 21 program have been implemented.

68. Several commenters disagree with that the assumption that there are five members per vehicle.

The rate models assume that each vehicle used for Community Support programs is driven 200 miles per week, which is the approximate amount reported by respondents to the provider survey (note that this mileage would not include picking up or dropping off members from their homes). The rate models further assume that there is one vehicle for every five members. Thus, the models provide 40 miles per member per week.

In general, it is anticipated that many community-based services will involve at least two direct support professionals so that if one member requires temporary one-to-one assistance (for example, for toileting, there will be another DSP to supervise the other members. As a result, the models assume that larger vehicles are used. As discussed in the response to comment 15, the Community Support rate models include an "enhanced" mileage rate of $0.655 per mile rather than the standard rate of $0.575 to allow for the purchase of larger 12- or 15-passenger vehicles.

That said, there is not a requirement that such larger vehicles be used. Providers may decide to use smaller vehicles, which could result in a greater number of miles per member (as fewer members are sharing each ride). This increase, though, would be offset to some extent by a lower operating cost (i.e., costs would be expected to be closer to the standard mileage rate rather than the enhanced rate).

69. Several commenters questioned the characterization that a reduction in revenue associated with changes to Community Supports rates may be somewhat offset by increased utilization due to the elimination of the annual cap of 1,125 hours. These commenters noted that they could not expand their programs due to staffing or facility constraints.

As part of the development of individual budgets, OADS is eliminating the annual limit of 1,125 hours of Community Support services (approximately 21.5 hours per week). Rather, members will be assigned an individual budget based upon their residential placement and level of need (and all budgets would allow members to receive more than 1,125 hours of Community Support). Additionally, changes to the methodology for setting Agency Home Support rates – discussed in the responses to comments 46 through 48 – are intended to make it more likely that members will spend more time outside of their homes, including in Community Support programs. Due to these changes,

OADS expects that some members will increase the amount of Community Support services that they use, creating an opportunity for agencies to provide more services.

It is unlikely that all members receiving an increased budget will use more services. This is particularly true of those who are only using a small portion of their current Community Support authorizations. However, 55 percent of all members use at least 80 percent of their authorizations and it is anticipated that these individuals will use more services if their budgets are increased. Additionally, 29 percent of members residing in Agency Home Support residences did not participate in any day activities (Community Support or Work Support). With the changes being made to the approach to setting rates for Agency Home Support, it is also expected that Community Support utilization amongst this group will increase.

Additionally, several providers have stated that they either cannot provide the number of hours of Community Support services that a member wants due to the annual limit or that they provide services that they cannot bill since the services were not authorized.

OADS believes it is therefore reasonable to conclude that some providers will be able to deliver and/or bill for a larger volume of services. It is acknowledged, though, that each program and provider is different and some agencies may be either unable or unwilling to increase the amount of services that they deliver.

70. One commenter wondered how the proposed changes to the Community Supports rates will affect residents of intermediate care facilities for individuals with intellectual disabilities.

At this time, OADS does not intend to make changes to the rates paid for Community Support services provided to members residing in intermediate care facilities for individuals with intellectual disabilities through Section 50. That section of the MaineCare Benefits Manual will be revised to remove the connection to the Section 21 rates for Community Supports.

THERAPIES AND CONSULTATIVE SERVICES

71. Two commenters suggested that a productivity adjustment for travel time be included in the rate models for Therapies and Consultative Services.

The rate models for Therapies and Consultative Services were constructed assuming that services are primarily delivered in an office setting. After further consideration, the models have been revised to include 75 miles and three hours of travel per week.

These revisions have the effect of increasing the rates for these services. The revised rates (which also account for changes made in response to comments 72 and 73) are compared to the current rates in the table below.

	Current Rate	Revised Rate	Difference
Occupational/Physical/Speech Therapy - Consultation	$5.40	$17.83	230%
Occupational Therapy - Maintenance	$9.54	$17.83	87%
Physical Therapy - Maintenance	$9.72	$17.83	83%
Speech Therapy - Maintenance	$12.48	$17.83	43%
Certified Occupational Therapist Assistant		$14.04	
Consultative Services - Behavioral	$14.85	$18.98	28%
Consultative Services - Psychological	$19.80	$22.04	11%

72. One commenter suggested that the wage assumption used in the Consultative Services – Behavioral rate model is too low because the Bureau of Labor Statistics data on which it relies may include both board certified behavioral analysts (BCBA) and board certified assistant behavioral analysts (BCABA).

The approach to developing wage assumptions is outlined in the response to comment 5. For Consultative Services – Behavioral, the rate model wage assumption sought to cover the professionals permitted to deliver this service by using the average of the median wage of two classifications: clinical, counseling, and school psychologists (19-3031) and mental health counselors (21-1014). This produced an assumed wage of $27.22 per hour or about $56,600 per year.

After further consideration and recognizing the shortage of professionals – including BCBAs – to deliver services to members served through Section 21, OADS has decided to use the 75th percentile wage for these job classifications, which translates to $35.49 per hour or about $73,800 annually.

Coupled with changes made in response to comment 71, the revised rate for Consultative Services – Behavioral is $18.98 per 15 minutes. This revised rate is about 28 higher than the current rate of $14.85 per 15 minutes.

73. Two commenters stated that the wage assumed for psychologists is too low.

The approach to developing wage assumptions is outlined in the response to comment 5. For Consultative Services – Psychological, the rate model wage assumption was based on the median wage for clinical, counseling, and school psychologists (19-3031) in the State of Maine, which was $31.98 per hour or about $66,500 per year.

After further consideration and recognizing the shortage of psychologists to deliver services to individuals receiving Section 21 services, OADS has decided to use the 75th percentile wage for this job classification, which is $42.41 per hour or about $87,800 annually.

Coupled with changes made in response to comment 71, the revised rate for Consultative Services – Psychological is $22.04 per 15 minutes. This revised rate is about 11 higher than the current rate of $19.80 per 15 minutes.

74. One commenter asked whether members can supplement the rate for Consultative Services – Psychological services.

Copayments are not permitted under Section 21.

75. One commenter suggested that the assumption regarding billable time for behavioral consultants is over-estimated and that productivity adjustment should be 1.30.

The commenter did not specify what productivity adjustments should be revised so a specific response is not possible. However, the addition of travel time as a productivity adjustment for Therapies and Consultative Services in response to comment 71 had the effect of changing the productivity adjustment for Consultative Services – Behavioral to 1.30, which is the figure suggested by the commenter.

76. One commenter asked whether Consultative Services can be billed while being delivered in the home or community (for example, when conducting functional behavioral assessments while the member is receiving other services).

The Consultative Services provider would be permitted to bill for the time described in the commenter's example.